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7

8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
9

10 UNITED STATES OF AMERICA,)
11 Plaintiff,)
12 v.) 2:11-CV-162-GMN-(LRL)
13 \$158,000.00 IN UNITED STATES)
CURRENCY,)
14 Defendant.)

15 **MOTION FOR AMENDED DEFAULT JUDGMENT OF FORFEITURE**

16 Pursuant to Fed. R. Civ. P. 55 and Fed. R. Civ. P. Supp. Rule G(4) and (5), the United States
17 respectfully moves this Court for entry of an amended default judgment of forfeiture based on the
18 following:

- 19 1. The United States filed a verified Complaint for Forfeiture in Rem on January 31, 2011.
20 Complaint in Forfeiture, ECF No. 1. The Complaint alleges the defendant property:
21 a. was furnished or was intended to be furnished in exchange for controlled
22 substances in violation of Title II of the Controlled Substances Act, 21 United
23 States Code, Section 801, et seq., and is subject to forfeiture to the United
24 States pursuant to 21 United States Code, Section 881(a)(6);
25 ...
26 ...

- 1 b. is proceeds traceable to exchanges of controlled substances in violation of Title
2 II of the Controlled Substances Act, 21 United States Code, Section 801, et
3 seq., and is subject to forfeiture to the United States pursuant to 21 United
4 States Code, Section 881(a)(6); and
5 c. was used or was intended to be used to facilitate violations of Title II of the
6 Controlled Substances Act, 21 United States Code, Section 801, et seq., and
7 is subject to forfeiture to the United States pursuant to 21 United States Code,
8 Section 881(a)(6).

9 2. On February 4, 2011, the Court entered an Order for Summons and Warrant of Arrest in
10 Rem for the Property and Notice and issued the Summons and Warrant of Arrest in Rem. EFC No.
11 4 and 5.

12 3. From February 9, 2011, through to March 10, 2011, Public notice of the forfeiture action
13 and arrest was given to all persons and entities by publication on the official government website
14 www.forfeiture.gov. Notice of Filing Proof of Publication, ECF No. 6, p. 2-4.

15 4. On March 14, 2011, the Notice of Filing Proof of Publication Process was filed. ECF No.
16 6.

17 5. Pursuant to the Order (ECF No. 4), the Complaint (ECF No. 1), the Summons and Warrant
18 (ECF No. 5), and the Notice of Complaint for Forfeiture were served on the defendant property, and
19 the Notice was published according to law (ECF No. 6). All persons interested in the defendant
20 property were required to file their claims with the Clerk of the Court within 30 days of the publication
21 of the Notice or within 35 days of actual notice of this action, as applicable, followed by the filing of
22 an answer to the Complaint within 21 days after the filing of their respective claims, excluding Annie
23 K. Adams who had yet to be located to be personally served. Complaint in Forfeiture, ECF No. 1;
24 Order for Summons and Warrant of Arrest in Rem for the Property and Notice, ECF No. 4; Summons
25 and Warrant of Arrest in Rem for Property, ECF No. 5; Notice of Filing Proof of Publication, ECF
26 No. 6.

1 6. On July 13, 2011, the United States caused to be served upon Steven Richard Kall, CDCR
2 #AH0401/California Correctional Center (CCC), the Complaint, the Order, the Summons and Warrant
3 of Arrest in Rem for the Property, and Notice by personal service. Notice of Filing Return on Service
4 of Process, ECF No. 7, p. 19-35.

5 7. On August 3, 2011, the United States caused to be served upon the defendant property, the
6 Complaint, the Order, the Summons and Warrant of Arrest in Rem for the Property, and the Notice.
7 Notice of Filing Return on Service of Process, ECF No. 7, p. 2-18.

8 8. On August 9, 2011, the Notice of Filing Return on Service of Process was filed. ECF No.
9 7.

10 9. On August 16, 2011, the United States filed a Request for Entry of Default against the
11 defendant property and all persons or entities who claim an interest in the defendant property in the
12 above-entitled action. ECF No. 8.

13 10. On August 17, 2011, the Clerk of the Court entered a Default against the defendant
14 property and all persons or entities who claim an interest in the defendant property in the above-
15 entitled action. ECF No. 9.

16 11. On August 25, 2011, the United States filed a Motion to Withdraw Request for Entry of
17 Default and to Replace with Amended Request and Order against the defendant property and all
18 persons or entities who claim an interest in the defendant property in the above-entitled action, which
19 was granted on August 30, 2011. ECF No. 10 and 11.

20 12. On August 30, 2011, the Clerk of the Court entered an Amended Default against the
21 defendant property and all persons or entities who claim an interest in the defendant property in the
22 above-entitled action, excluding Annie K. Adams, who had yet to be located to be personally served.
23 Clerk's Entry of Default, ECF No. 12.

24 13. As of August 30, 2011, Annie K. Adams, who was arrested at the same time as Steven
25 Richard Kall, had not been located to be served personally, however the search continued through
26 efforts with the arresting agency, the United States Marshals Service and the Asset Forfeiture Unit.

1 14. On April 26, 2012, the United States caused to be served upon Annie K. Adams the
2 Complaint, the Order, the Summons and Warrant of Arrest in Rem for the Property, and Notice by
3 personal service. Amended Notice of Filing Return on Service of Process, ECF No. 16.

4 15. On September 25, 2012, the United States filed its Request for Entry of Default as to
5 Annie K. Adams. ECF No. 17.

6 16. On September 26, 2012, the Clerk of the Court entered a Default as to Annie K. Adams.
7 ECF No. 18.

8 17. No person or entity has filed a claim, answer, or responsive pleading within the time
9 permitted by 18 U.S.C. § 983(a)(4) and Fed. R. Civ. P. Supp. Rule G(4) and (5).

10 18. The allegations of the Complaint are sustained by the evidence and should be adopted
11 as findings of fact. The Court should conclude as a matter of law that the United States is entitled to
12 the relief requested in the Complaint.

13 19. The United States requests that an amended default judgment of forfeiture be entered
14 against the defendant property and all persons or entities who claim an interest in the defendant
15 property in the above-entitled action, including Annie K. Adams who has now been located and
16 personally served. A proposed Amended Default Judgment of Forfeiture is submitted herewith.

17 20. The United States further requests this Court certify, pursuant to 28 U.S.C. § 2465(a)(2),
18 that there was reasonable cause for the seizure, arrest, and forfeiture of the defendant property.

19 Respectfully submitted this 28th day of September, 2012.

20 DANIEL G. BOGDEN
21 United States Attorney

22 _____
23 /s/ Michael A. Humphreys _____
24 MICHAEL A. HUMPHREYS
25 Assistant United States Attorney

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10 UNITED STATES OF AMERICA,)
11 Plaintiff,)
12 v.)
13 \$158,000.00 IN UNITED STATES)
CURRENCY,)
14 Defendant.)

2:11-CV-0162-GMN-(LRL)

15 **AMENDED DEFAULT JUDGMENT OF FORFEITURE**

16 The United States filed a verified Complaint for Forfeiture in Rem on January 31, 2011.
17 Complaint in Forfeiture in Rem, ECF No. 1. The Complaint alleges the defendant property:

- 18 a. was furnished or was intended to be furnished in exchange for controlled substances
19 in violation of Title II of the Controlled Substances Act, 21 United States Code,
20 Section 801, et seq., and is subject to forfeiture to the United States pursuant to 21
21 United States Code, Section 881(a)(6);
22 b. is proceeds traceable to exchanges of controlled substances in violation of Title II of
23 the Controlled Substances Act, 21 United States Code, Section 801, et seq., and is
24 subject to forfeiture to the United States pursuant to 21 United States Code, Section
25 881(a)(6); and
26 ...

1 c. was used or was intended to be used to facilitate violations of Title II of the Controlled
2 Substances Act, 21 United States Code, Section 801, et seq., and is subject to forfeiture
3 to the United States pursuant to 21 United States Code, Section 881(a)(6).

4 It appearing that process was fully issued in this action and returned according to law,
5 including Annie K. Adams who has now been located and personally served;

6 On February 4, 2011, the Court entered an Order for Summons and Warrant of Arrest in Rem
7 for the Property and Notice and issued the Summons and Warrant of Arrest in Rem. EFC No. 4 and
8 5.

9 Pursuant to the Order (ECF No. 4), the Complaint (ECF No. 1), the Summons and Warrant
10 (ECF No. 5), and the Notice of Complaint for Forfeiture were served on the defendant property, and
11 the Notice was published according to law (ECF No. 6). All persons interested in the defendant
12 property were required to file their claims with the Clerk of the Court within 30 days of the publication
13 of the Notice or within 35 days of actual notice of this action, as applicable, followed by the filing of
14 an answer to the Complaint within 21 days after the filing of their respective claims, excluding Annie
15 K. Adams who had yet to be located to be personally served. Complaint in Forfeiture, ECF No. 1;
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18 No. 6. Public notice of the forfeiture action and arrest was given to all persons and entities by
19 publication on the official government website www.forfeiture.gov from February 9, 2011, through
20 to March 10, 2011. ECF No. 6, p. 2-4.

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16 served. Clerk's Entry of Default, ECF No. 12.

17 As of August 30, 2011, Annie K. Adams, who was arrested at the same time as Steven
18 Richard Kall, had not been located to be served personally, however the search continued through
19 efforts with the arresting agency, the United States Marshals Service and the Asset Forfeiture Unit.

20 On April 26, 2012, the United States caused to be served upon Annie K. Adams the
21 Complaint, the Order, the Summons and Warrant of Arrest in Rem for the Property, and Notice by
22 personal service. Amended Notice of Filing Return on Service of Process, ECF No. 16.

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24 K. Adams. ECF No. 17.

25 On September 26, 2012, the Clerk of the Court entered a Default as to Annie K. Adams. ECF
26 No. 18.

No person or entity has filed a claim, answer, or responsive pleading within the time permitted by 18 U.S.C. § 983(a)(4) and Fed. R. Civ. P. Supp. Rule G(4) and (5).

The allegations of the Complaint are sustained by the evidence and are adopted as findings of fact. The Court concludes as a matter of law that the United States is entitled to the relief requested in the Complaint.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that an Amended Default Judgment of Forfeiture be entered against the defendant property and all persons or entities who claim an interest in the defendant property in the above-entitled action, including Annie K. Adams who has now been located and personally served.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that said property be, and the same is hereby forfeited to the United States of America, and no right, title, or interest in the property shall exist in any other party, including Annie K. Adams who has been located and personally served.

IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was reasonable cause for the seizure or arrest of the defendant property.

DATED: October 2, 2012

Gloria M. Navarro
United States District Judge